

AMENDED IN SENATE DECEMBER 17, 2009

AMENDED IN SENATE JULY 15, 2009

AMENDED IN SENATE JUNE 23, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 20, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 511

Introduced by Assembly Member De La Torre

February 24, 2009

An act to add and repeal Chapter 13 (commencing with Section 1799.300) of Division 2.5 of the Health and Safety Code, *and to add and repeal Article 3.9 (commencing with Section 14127.1) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code*, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 511, as amended, De La Torre. Medi-Cal: ambulance transportation services providers: quality assurance fees.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which health care services, including medical transportation services, are provided to qualified low-income persons. The Medi-Cal program is partially governed and funded under federal Medicaid provisions.

Existing law establishes a quality assurance fee program for skilled nursing and intermediate care facilities, as prescribed.

~~This bill would provide, as a condition of participation in the Medi-Cal program, that there be imposed a quality assurance fee on ambulance transportation services providers, to be administered by the Director of Health Care Services. The proceeds from the fee would be required to be deposited into the Medi-Cal Ambulance Transportation Services Providers Fund, which the bill would create. The bill would provide that moneys in the fund shall, upon appropriation by the Legislature, be available exclusively to enhance federal financial participation for ambulance transportation services under the Medi-Cal program or to provide additional reimbursement to, and to support quality improvement efforts of, ambulance transportation services providers, including increased reimbursement for, and improvement of the quality of, the provision of advanced life support services, as defined. The bill would provide that these provisions are to be implemented only if, and as long as, the state receives federal approval for the fee and legislation is enacted during the 2009–10 Regular Session of the Legislature that makes an appropriation from the fund and from the Federal Trust Fund to fund a Medi-Cal rate increase for ambulance transportation services providers. The bill would provide that it shall remain operative only as long as certain conditions are met and if any one of the conditions is not met, its provisions shall become inoperative and be repealed.~~

This bill, as a condition of participation in the Medi-Cal program, commencing July 1, 2010, would impose on each public and private ambulance transportation services provider that bills and receives patient care revenue from the provision of ambulance transportation services, as defined, except as provided, a quality assurance fee for each transport provided, as specified.

This bill would require the quality assurance fee to be paid by providers to the State Board of Equalization on a monthly basis on or before the last day of the month following the month for which the fee was imposed, except as specified.

The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

The bill would require the State Board of Equalization to collect the quality assurance fee in accordance with the Fee Collection Procedures Law. Because the Fee Collection Procedures Law would apply to the collection of the fee, the violation of which is a crime, it would impose a state-mandated local program.

This bill would require the State Board of Equalization to deposit the quality assurance fee collected into the Medi-Cal Ambulance

Transportation Services Providers Fund, which the bill would create. The bill would provide that moneys in the fund shall, upon appropriation by the Legislature, be available exclusively to enhance federal financial participation for ambulance transportation services under the Medi-Cal program or to provide additional reimbursement to, and to support quality improvement efforts of, ambulance transportation services providers, including increased reimbursement for, and improvement of the quality of, the provision of advanced life support services, as defined.

The bill would provide that the above-described provisions are to be implemented only if, and as long as, the state receives federal approval for the fee and legislation is enacted during the 2009–10 Regular Session of the Legislature that makes an appropriation from the fund and from the Federal Trust Fund to fund a Medi-Cal rate increase for ambulance transportation services providers.

This bill, commencing August 1, 2010, to July 1, 2016, inclusive, would provide that Medi-Cal reimbursement for ambulance transportation services shall be the amount equal to that established by the federal Medicare Program for the same services, utilizing applicable Medicare standards, definitions, and regional-specific modifiers.

This bill would require the department to request approval from the federal Centers for Medicare and Medicaid Services (CMS) for the above-described provisions. This bill would provided that if there is a delay in the implementation of the above-described provisions for any reason, including a delay in the approval of the quality assurance fee and reimbursement methodology by CMS, a provider subject to the fee may be assessed the amount the provider would be required to pay if the methodology were already approved, but shall not be required to pay the fee until the methodology is approved and the department may retroactively increase and make payments of rates to Medi-Cal ambulance transportation services providers.

The bill would provide that the provisions of the bill shall cease to be implemented if any of certain conditions, including continued federal approval, is no longer met.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 13 (commencing with Section 1799.300)*
2 *is added to Division 2.5 of the Health and Safety Code, to read:*

3
4 *CHAPTER 13. AMBULANCE TRANSPORTATION SERVICES*
5 *PROVIDER QUALITY ASSURANCE FEE*
6

7 1799.300 (a) *For purposes of this chapter, “ambulance*
8 *transportation services” means the transportation of sick, injured,*
9 *invalid, convalescent, infirm, or otherwise incapacitated persons*
10 *by an ambulance licensed, operated, and equipped in accordance*
11 *with applicable state or local statutes, ordinances, or regulations.*
12 *“Ambulance transportation services” shall not include*
13 *transportation of beneficiaries by passenger car, taxicabs, litter*
14 *vans, wheelchair vans, or other forms of public or private*
15 *conveyances.*

16 (b) *As a condition of participation in the Medi-Cal program,*
17 *commencing July 1, 2010, for each public and private ambulance*
18 *transportation services provider that bills and receives patient*
19 *care revenue from the provision of ambulance transportation*
20 *services, there shall be imposed a quality assurance fee for each*
21 *transport provided. The fee shall not be assessed when, following*
22 *evaluation of a patient, no transport is provided. The quality*
23 *assurance fee shall be assessed on all Medi-Cal ambulance*
24 *transportation services providers except for a Medi-Cal ambulance*
25 *transportation services provider that is exempt pursuant to*
26 *paragraph (2) of subdivision (a) of Section 1799.307 and air*
27 *ambulance providers.*

28 (c) *The amount of the quality assurance fee assessed on each*
29 *Medi-Cal ambulance transportation services provider shall be*
30 *assessed on a per-transport basis and shall be calculated in*
31 *accordance with the methodology outlined in subdivision (d), in*
32 *the request for federal approval required by Section 1799.307,*
33 *and in regulations, provider bulletins, or similar instructions.*

1 (d) (1) *The per-transport quality assurance fee shall be*
2 *calculated as follows:*

3 (A) *For the 2010–11 fiscal year, the total annual gross receipts*
4 *shall be projected for all ambulance transportation services*
5 *providers subject to the fee, as described in subdivision (b). This*
6 *projection shall be based on data collected from ambulance*
7 *transportation services providers, as required pursuant to Section*
8 *1799.305. The projected total annual gross receipts for these*
9 *providers shall be multiplied by 5.5 percent and the resulting sum*
10 *shall be divided by the projected total annual transports by these*
11 *providers to determine the amount to be assessed per transport*
12 *during the 2010–11 fiscal year.*

13 (B) *For the 2011–12 to 2015–16, inclusive, fiscal years, the*
14 *total annual gross receipts shall be projected for all ambulance*
15 *transportation services providers subject to the fee, as described*
16 *in subdivision (b). This projection shall be based on data collected*
17 *from ambulance transportation services providers in the prior*
18 *year. The projected total annual gross receipts for these providers*
19 *shall be multiplied by 5.5 percent and the resulting sum shall be*
20 *divided by the projected total annual transports by these providers*
21 *to determine the amount to be assessed per transport for the fiscal*
22 *year.*

23 (2) *For purposes of this section, “gross receipts” means gross*
24 *payments received as patient care revenue for ambulance*
25 *transportation services during a reporting period determined on*
26 *a cash basis of accounting.*

27 (3) *In no case shall the fees calculated pursuant to*
28 *subparagraphs (A) and (B) of paragraph (1) and collected pursuant*
29 *to this chapter exceed the amounts allowable under federal law.*

30 (e) *If there is a delay in the implementation of this chapter for*
31 *any reason, including a delay in any required approval of the*
32 *quality assurance fee and reimbursement methodology specified*
33 *in Article 3.9 (commencing with Section 14127.1) of the Welfare*
34 *and Institutions Code by the federal Centers for Medicare and*
35 *Medicaid Services, in the 2009–10 fiscal year or in any other fiscal*
36 *year, all of the following shall apply:*

37 (1) *A Medi-Cal provider subject to the fee may be assessed the*
38 *amount the provider would be required to pay to the State Board*
39 *of Equalization if the methodology were already approved, but*

1 shall not be required to pay the fee until the methodology is
2 approved.

3 (2) The department may retroactively increase and make
4 payment of rates to Medi-Cal ambulance transportation services
5 providers.

6 (3) The Medi-Cal rate increase referenced in paragraph (2) of
7 subdivision (a) of Section 1799.308 shall be paid within 30 days
8 of the approval of the reimbursement methodology described in
9 Article 3.9 (commencing with Section 14127.1) of the Welfare and
10 Institutions Code.

11 1799.301. (a) The quality assurance fee, as calculated pursuant
12 to Section 1799.300, shall be paid by the providers subject to the
13 fee to the State Board of Equalization on a monthly basis on or
14 before the last day of the month following the month for which the
15 fee was imposed, except as provided in subdivision (e) of Section
16 1799.300.

17 (b) In order for the State Board of Equalization to verify the
18 accuracy of the quality assurance fee paid, each provider paying
19 a quality assurance fee shall submit with the fee paid, in a form
20 prescribed by the State Board of Equalization, data on the number
21 of transports and gross receipts from the provision of ambulance
22 transportation services provided during the month for which the
23 fee is being paid.

24 (c) When a provider subject to the fee fails to pay all or part of
25 the quality assurance fee within 60 days of the date that payment
26 is due, the department may deduct the unpaid fee and interest owed
27 from any Medi-Cal reimbursement payments owed to the provider
28 until the full amount of the fee and interest are recovered. Any
29 deduction made pursuant to this subdivision shall be made only
30 after the department gives the provider written notification. Any
31 deduction made pursuant to this subdivision may be deducted over
32 a period of time that takes into account the financial condition of
33 the provider.

34 (d) If all or any part of the quality assurance fee remains unpaid,
35 the State Board of Equalization may assess a penalty on the
36 provider of the unpaid fee amount.

37 (e) The State Board of Equalization shall accept a provider's
38 payment even if the payment is submitted in a subsequent rate year
39 than the rate year in which the fee was assessed.

1 1799.302. (a) *The Director of Health Care Services, with the*
2 *assistance of the State Board of Equalization, as described in*
3 *Sections 1799.303 and 1799.304, shall administer this chapter.*

4 (b) *The director may adopt regulations as are necessary to*
5 *implement this chapter. These regulations may be adopted as*
6 *emergency regulations in accordance with the rulemaking*
7 *provisions of the Administrative Procedure Act (Chapter 3.5*
8 *(commencing with Section 11340) of Part 1 of Division 3 of Title*
9 *2 of the Government Code). For purposes of this chapter, the first*
10 *adoption of regulations shall be deemed an emergency and*
11 *necessary for the immediate preservation of the public peace,*
12 *health and safety, or general welfare. The regulations shall include,*
13 *but need not be limited to, any regulations necessary for any of*
14 *the following purposes:*

15 (1) *The administration of this chapter, including the proper*
16 *imposition of the quality assurance fee. The costs associated with*
17 *the administration of this chapter are not to exceed the amounts*
18 *reasonably necessary to administer this chapter.*

19 (2) *The development of any forms necessary to obtain required*
20 *information from providers subject to the quality assurance fee.*

21 (3) *To provide details, definitions, formulas, and other*
22 *requirements.*

23 (c) *As an alternative to subdivision (b), and notwithstanding*
24 *the rulemaking provisions of Chapter 3.5 (commencing with*
25 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
26 *Code, the director may implement this chapter, in whole or in part,*
27 *by means of a provider bulletin, or other similar instructions,*
28 *without taking regulatory action, provided that no such bulletin*
29 *or other similar instructions shall remain in effect after July 31,*
30 *2012. It is the intent of the Legislature that the regulations adopted*
31 *pursuant to subdivision (b) be adopted on or before July 31, 2012.*

32 (d) *The director shall coordinate with the State Board of*
33 *Equalization to ensure that the quality assurance fee per transport*
34 *imposed pursuant to this chapter is collected pursuant to Section*
35 *1799.303.*

36 1799.303. (a) *The State Board of Equalization shall collect*
37 *the quality assurance fee imposed pursuant to this chapter in*
38 *accordance with the Fee Collection Procedures Law (Part 30*
39 *(commencing with Section 55001) of Division 2 of the Revenue*
40 *and Taxation Code). For the purposes of this chapter, the*

1 references in the Fee Collection Procedures Law to “feepayer”
2 shall include an ambulance transportation services provider
3 subject to the quality assurance fee, as described in subdivision
4 (b) of Section 1799.300.

5 (b) The State Board of Equalization may prescribe, adopt, and
6 enforce regulations relating to the collection of the quality
7 assurance fee per transport imposed by this chapter including, but
8 not limited to, provisions governing collections, reporting, and
9 refunds.

10 (c) The State Board of Equalization may prescribe, adopt, and
11 enforce emergency regulations as necessary to implement the
12 collection of the proposed quality assurance fee per transport
13 imposed by this chapter. Any emergency regulations prescribed,
14 adopted, or enforced pursuant to this section shall be adopted in
15 accordance with Chapter 3.5 (commencing with Section 11340)
16 of Part 1 of Division 3 of Title 2 of the Government Code, and, for
17 purposes of that chapter, including Section 11349.6 of the
18 Government Code, the adoption of these regulations is an
19 emergency and shall be considered by the Office of Administrative
20 Law as necessary for the immediate preservation of the public
21 peace, health and safety, and general welfare.

22 1799.304. The State Board of Equalization shall deposit the
23 quality assurance fee collected pursuant to this chapter in the
24 Medi-Cal Ambulance Transportation Services Providers Fund,
25 which is hereby created in the State Treasury. Notwithstanding
26 Section 16305.7 of the Government Code, the fund shall also
27 include interest and dividends earned on moneys in the fund.

28 1799.305. Commencing January 1, 2010, on a monthly basis
29 on or before the last day of the following month, each public and
30 private ambulance transportation services provider subject to the
31 fee shall report to the State Board of Equalization, in a form
32 prescribed by the State Board of Equalization, data on the number
33 of actual transports and gross receipts from the provision of
34 ambulance transportation services provided in the month.

35 1799.306. Moneys in the Medi-Cal Ambulance Transportation
36 Services Providers Fund shall, upon appropriation by the
37 Legislature, be available exclusively for the following purposes:

38 (a) To enhance federal financial participation for ambulance
39 transportation services under the Medi-Cal program.

1 ***(b) To provide additional reimbursement to, and to support***
2 ***quality improvement efforts of, ambulance transportation services***
3 ***providers, including increased reimbursement for, and***
4 ***improvement of the quality of, the provision of advanced life***
5 ***support services as defined in Section 1797.52.***

6 ***1799.307. (a) (1) The department shall request approval from***
7 ***the federal Centers for Medicare and Medicaid Services for the***
8 ***implementation of this chapter.***

9 ***(2) The director may alter the methodology specified in this***
10 ***chapter, to the extent necessary to meet the requirements of federal***
11 ***law or regulations or to obtain federal approval. If the director,***
12 ***after consulting with affected ambulance transportation services***
13 ***providers, determines that an alteration is needed, the director***
14 ***shall execute a declaration stating that this determination has been***
15 ***made. The director shall retain the declaration and provide a copy,***
16 ***within five working days of the execution of the declaration, to the***
17 ***fiscal and appropriate policy committees of the Legislature.***

18 ***(3) The director may add categories of exempt ambulance***
19 ***transportation services providers or apply a nonuniform fee per***
20 ***transport to ambulance transportation services providers that are***
21 ***subject to the fee in order to meet requirements of federal law or***
22 ***regulations. The director may exempt categories of ambulance***
23 ***transportation services providers from the fee, if necessary to***
24 ***obtain federal approval.***

25 ***(b) The department shall make retrospective adjustments, as***
26 ***necessary, to the amounts calculated pursuant to Section 1799.300***
27 ***in order to ensure that the quality assurance fee for any provider***
28 ***in a particular state fiscal year does not exceed 5.5 percent of the***
29 ***aggregate annual net receipts derived by a provider subject to the***
30 ***fee from the provision of ambulance transportation services.***

31 ***1799.308. (a) This chapter shall be implemented only if, and***
32 ***as long as, both of the following conditions are met:***

33 ***(1) The state receives federal approval of the quality assurance***
34 ***fee from the federal Centers for Medicare and Medicaid Services.***

35 ***(2) Legislation is enacted during the 2009–10 Regular Session***
36 ***of the Legislature that makes an appropriation from the Medi-Cal***
37 ***Ambulance Transportation Services Providers Fund and from the***
38 ***Federal Trust Fund to fund a Medi-Cal rate increase for***
39 ***ambulance transportation services providers.***

1 **(b)** *This chapter shall cease to be implemented if any of the*
2 *following conditions is no longer met:*

3 **(1)** *The federal Centers for Medicare and Medicaid Services*
4 *continues to allow the use of the provider assessment provided in*
5 *this chapter.*

6 **(2)** *The Medi-Cal rate increase referenced in paragraph (2) of*
7 *subdivision (a) remains in effect.*

8 **(3)** *The full amount of the quality assurance fee assessed and*
9 *collected pursuant to this chapter remains available for the*
10 *purposes specified in Section 1799.306.*

11 **(c)** *If all of the conditions in subdivision (a) are met, this chapter*
12 *is implemented, and subsequently, any one of the conditions in*
13 *subdivision (b) is not met, on and after the date that the director*
14 *executes a declaration that makes the determination that any*
15 *condition is not met, this chapter shall become inoperative*
16 *notwithstanding that the condition or conditions subsequently may*
17 *be met.*

18 **(d)** *Notwithstanding subdivisions (a), (b), and (c), in the event*
19 *of a final judicial determination made by any state or federal court*
20 *that is not appealed, or by a court of appellate jurisdiction that is*
21 *not further appealed, in any action by any party, or a final*
22 *determination by the administrator of the federal Centers for*
23 *Medicare and Medicaid Services, that federal financial*
24 *participation is not available with respect to any payment made*
25 *under the methodology implemented pursuant to this chapter*
26 *because the methodology is invalid, unlawful, or contrary to any*
27 *provision of federal law or regulations, or of state law, this chapter*
28 *shall become inoperative.*

29 **1799.309.** *This chapter shall become inoperative on the earlier*
30 *of the date it becomes inoperative pursuant to Section 1799.308*
31 *or July 1, 2016, and, as of January 1, 2017, is repealed, unless a*
32 *later enacted statute, that becomes operative on or before January*
33 *1, 2017, deletes or extends the dates on which it becomes*
34 *inoperative and is repealed.*

35 **SEC. 2.** *Article 3.9 (commencing with Section 14127.1) is added*
36 *to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions*
37 *Code, to read:*

Article 3.9. *Medi-Cal Ambulance Transportation
Reimbursement Act*

14127.1. *This article shall be known, and may be cited, as the
Medi-Cal Ambulance Transportation Reimbursement Act.*

14127.2. (a) *It is the intent of the Legislature to increase the
Medi-Cal ambulance transportation reimbursement to support
quality improvement efforts by ambulance transportation services
providers, including, but not limited to, the provision of advanced
life support services, as defined in Section 1797.52.*

(b) *For purposes of this article, “ambulance transportation
services” means the transportation of sick, injured, invalid,
convalescent, infirm, or otherwise incapacitated persons by an
ambulance licensed, operated, and equipped in accordance with
applicable state or local statutes, ordinances, or regulations.
“Ambulance transportation services” shall not include
transportation of beneficiaries by passenger car, taxicabs, litter
vans, wheelchair vans, or other forms of public or private
conveyances.*

(c) (1) *Commencing August 1, 2010, Medi-Cal reimbursement
for ambulance transportation services shall be the amount equal
to that established by the federal Medicare Program for the same
service, utilizing applicable Medicare standards, definitions, and
regional-specific modifiers. This reimbursement rate shall be
effective commencing on August 1, 2010, and shall be paid on the
later of the following dates:*

(A) *The first day of the month following federal approval of the
reimbursement methodology established by this article.*

(B) *Sixty days following the initial assessment of the quality
assurance fee imposed pursuant to Section 1799.300 of the Health
and Safety Code.*

(2) *The department may retroactively increase and make
payments of increased rates to Medi-Cal ambulance transportation
services providers as necessary to implement this subdivision.*

(d) *For managed health care plans that contract with the
department pursuant to this chapter, Chapter 8 (commencing with
Section 14200), and Chapter 8.75 (commencing with Section
14590), payments shall be increased by the actuarial equivalent
amount of the payment increase, based on projections by the
department, as a result of implementation of subdivision (b),*

1 pursuant to contract amendments or change orders effective on
2 August 1, 2010. Under the contract amendment or change order,
3 a managed health care plan shall be required to expend, in the
4 form of additional payments to ambulance transportation services
5 providers, 100 percent of any increased payment it receives under
6 this subdivision. Any delegation or attempted delegation by a
7 managed health care plan of its obligation to make the additional
8 payments under this subdivision shall not relieve the managed
9 health care plan from its obligation to make the payments.
10 Managed health care plans shall submit documentation as the
11 department may require to demonstrate compliance with this
12 subdivision.

13 (e) The reimbursement rate set forth in subdivisions (b) and (c)
14 shall continue as long as the quality assurance transport fees
15 imposed pursuant to Section 1799.300 of the Health and Safety
16 Code is in effect.

17 (f) The department shall request approval from the federal
18 Centers for Medicare and Medicaid Services for the
19 implementation of this article.

20 14127.3. This article shall become inoperative on the earlier
21 of the date that Chapter 13 (commencing with Section 1799.300)
22 of Division of 2.5 of the Health and Safety Code becomes
23 inoperative pursuant to Section 1799.308 of the Health and Safety
24 Code or July 1, 2016, and, as of January 1, 2017, is repealed,
25 unless a later enacted statute, that becomes operative on or before
26 January 1, 2017, deletes or extends the dates on which it becomes
27 inoperative and is repealed.

28 SEC. 3. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.

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**All matter deleted in this version of the bill
appears in the bill as amended in the
Senate, July 15, 2009.(JR11)**

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